FILED
OCT 27 1979
ALEXANDER RODAK, JR., CLERK

No. 79-606

In the Supreme Court
of the United States

OCTOBER TERM, 1979

LUMBER, PRODUCTION AND INDUSTRIAL WORKERS LOCAL 2362,
Appellant,

v.

ROBERT A. WONDZELL and THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS,
Appellees.

On Appeal from the Supreme Court of Alaska

APPENDIX A-100
Dissenting Opinion of Justice Connor

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October 24, 1979

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CONNOR, Justice, dissenting.

I am still not convinced that *Anderson* v. *General Dynamics Convair Aerospace Division*, 589 F.2d 397 (9th Cir. 1978), or *Burns* v. *Southern Pacific Transportation Co.*, 589 F.2d 403 (9th Cir. 1978), provide the proper legal resolution of the problem presented in the case at bar. To require factual inquiries as to what further accommodation can be made is to adopt a rule which requires undue litigation of a question that must, in the last analysis, be one of drawing a line between

two statutes which prescribe conflicting, opposite goals. To cast the burden upon the employer and the union to demonstrate further their ability to give way to Wondzell's demands is really a roundabout way of saying that the employee's religious scruples must take precedence over the principle of the union shop which is deeply embedded in federal labor law. In light of *Trans World Airlines, Inc.* v. *Hardison*, 432 U.S. 63 (1977). I do not believe that the employer and union were required to give way any more than they did.

Thus, I respectfully dissent from the majority opinion on rehearing, and would affirm the judgment of the superior court.